

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2004139

Variance

Hearing Date:

April 13, 2005 (continued from November 10, 2004)

Agenda Item:

10

Supervisory District:

3

*Indicates new or revised information since the hearing of November 10, 2004.

Applicant/Owner:

Don Boehmer

Request:

Variance to:

Permit a proposed hillside disturbance of 24% where 15% is the maximum hillside disturbance allowed in the Rural-43 zoning district.

This variance is requested from the following Zoning Ordinance Section(s):

Section 1201, Article 1201.6.1.1

Site Location:

227 W. Jomax Road – Central Avenue and Jomax Road
(north Phoenix area)

Site Size:

65,682-square feet (1.5 acres)

Existing Zoning:

Rural-43

Current Use:

Vacant

Citizen

Support/Opposition:

None known

Staff

Recommendation:

Continue to the May 11, 2005 hearing date

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Vacant
North: Single-family residence
South: Vacant
East: Vacant
West: Vacant

Background:

3. **November 5, 1958:** The parent parcel was deeded to the original owner via a Federal Patent. This parcel encompassed 3.22 acres, was square in shape and was subject to patent easements on the north and west boundaries.
4. **May 5, 2003:** The current owner submitted plans to construct a single-family residence on the subject site under case **B200305555**.
5. **July 2004:** Plan Review staff note that the proposed hillside disturbance exceeds the maximum allowed in the Rural-43 zoning district.
6. **September 20, 2004:** The applicant applied for this request.
- *7. **November 10, 2004:** The Board of Adjustment continued this case to the January 12, 2005 hearing date to allow the applicant to revise the proposed wastewater disposal system.

Findings:

8. **Maricopa County Department of Transportation:** No response at the time this report was written.
9. **Flood Control District:** No objections to the request (see attached memo).

10. **Environmental Services Department:** States that this site will require an alternative septic system. Cannot approve variance as requested until wastewater issues are resolved (see attached memo).

Site Analysis:

11. The subject site is a rectangular shaped lot measuring approximately 200 feet in width and 330 feet in depth for a total area of 65,682-square feet. There is a 33-foot wide patent easement across the western portion of the site. This patent easement coincides with the 3rd Avenue alignment. Access is via a graded driveway that enters at the northwest corner of the subject site and gradually arcs southeastward to the proposed pad area. A portion of this driveway is located within the patent easement. The driveway provides access from the site to Jomax Road, which is located a short distance to the north of the subject site. A wash is present on the site that runs from roughly the center of the lot to the northwest corner of the site.
12. The subject site is located in an area of steep, rocky, hillside terrain in the north Phoenix area inside a Class I County Island. The terrain on the subject site ranges from less than 13% slope to almost 70% slope in certain areas. At this time, the subject site is vacant and is populated with typical Upper Sonoran type vegetation including Palo Verde, Mesquite and Saguaro. The existing driveway is the only improvement on the site. The applicant is proposing to construct a 5,200-square foot, single-family residence on the subject site. No other structures are proposed at this time.
13. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	73-feet**	115-feet
Rear Yard Setback	40-feet	107-feet
Side Yard Setback	30-feet	40-feet
Street Side Setback	20-feet	N/A
Maximum Height	30-feet/2 stories	16-feet/1 story
Minimum Lot Area	43,560-sq. ft.	65,682-sq. ft.
Minimum Lot Width	145-feet	200-feet
Lot Coverage	15%	7.5%
Hillside Disturbance	15%	24%

*Standards indicated in **bold** do not meet minimum base zoning standards.

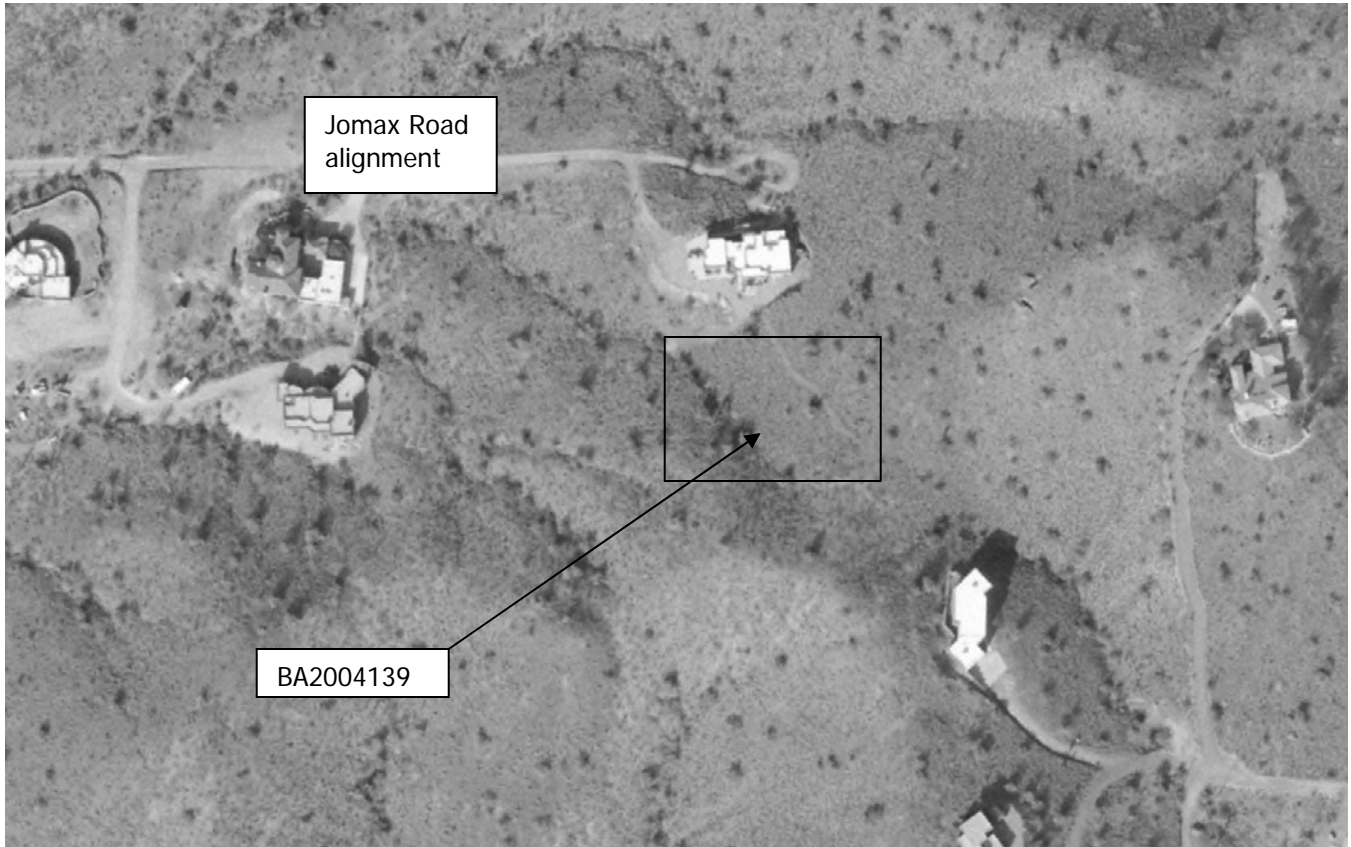
**Increased setback due to Patent Easement.

Land Use Analysis:

14. The subject site is located in a County Island in the north Phoenix area. This County Island is bordered by Jomax Road to the north, 19th Avenue to the west, 7th Street to the east and Pinnacle Peak Road to the south. The area has been developed exclusively through the lot splitting process. There are some scattered commercial and industrial

parcels in this area; however, the majority of the area is zoned Rural-43. The C.A.P. canal runs through this area from northwest to southeast. The ExPonent automotive testing facility is located approximately one mile to the southwest within the City of Phoenix corporate limits.

15. The terrain in this area is typically level with some large wash features present. The northern part of this County Island includes hillside areas and other difficult terrain. The subject site is located in this area. There are many Small Tract Act lots in this area, which is riddled with patent easements. Vegetation is primarily Lower Sonoran type with a preponderance of Creosote and Mesquite. Some Upper Sonoran vegetation is present in the areas with higher elevations.



Aerial view of the subject site and surrounding area.

16. Staff research found evidence of seven other variance requests within the immediate or general area. Of these requests, two involved variances for hillside disturbance in excess of 15%. These cases are summarized below.
 - **BA2002032:** (29 W. Briles Road) – This was a request to permit a proposed hillside disturbance of 41% where 15% is the maximum allowed in the Rural-43 zoning district. This site is located approximately 700 feet southeast of the subject site near the intersection of Briles Road and Central Avenue. The Board approved this request.

- **BA2003098:** (613 W. Jomax Road) – This was a request to permit: 1) an existing single-family residence to setback 30 feet from the front (north) property line where 40 feet is the minimum distance allowed, 2) a proposed garage to setback 30 feet from the front (north) property line where 40 feet is the minimum allowed; and 3) an existing hillside disturbance of 20.5% where 15% is the maximum hillside disturbance permitted. This site is located a short distance west of the subject site along Jomax Road. The Board approved these requests.

Plan Analysis:

17. This is a request to permit a proposed hillside disturbance of 24% where 15% is the maximum hillside disturbance allowed in the Rural-43 zoning district. This request came about when the Plan Review division noted the excessive hillside disturbance during the review of the building permit for the residence. The residence will consist of 3,967-square feet of livable area, a 1,067-square foot attached garage and a 190-square foot covered patio area for a total of 5,224-square feet under roof. This figure is similar to other residences in the immediate area and only accounts for approximately 7.5% lot coverage where up to 15% is allowed. The lot itself is considered to be mostly hillside with slopes in excess of 15% within any horizontal distance with a five-foot elevation change. It should be noted that approximately 15% of the total site area is *not* considered hillside. Unfortunately, these level areas are small in total area and are scattered around the subject site. This precludes using these areas for development of the residence and also drives up the hillside disturbance figure.
18. The applicant is proposing to place the single-family residence towards the west-central portion of the site to take advantage of the existing driveway. There is a somewhat larger level portion of the site towards the southeastern corner of the lot; however, while that portion of the site may reduce the disturbance created by the residence, it will require a much longer driveway to access the pad area. This in turn will create a much larger scar and a higher disturbance calculation.
19. Staff is of the opinion that this request is reasonable in nature. If the site were 100% hillside, the disturbance calculation would be 21.8%. This is still above what is typically allowed, but does illustrate the impact of the non-hillside areas on the disturbance calculations. The terrain of this site does not easily lend itself to development. The applicant cannot move the residence much further to the west due to the presence of the 33-foot wide patent easement and the wash area. Moving the residence further to the east results in a longer driveway and greater disturbance figures, not to mention the much larger, and more visible, driveway scar across the site. The proposed residence is not out of character with the area and is approximately half the size of what would be allowed on this particular site. Staff recommends that this request be approved as outlined below.

Recommendation: (BA2004139)

*20. Staff recommends **continuance** of this variance request based on the following:

- No new information regarding the proposed septic system has been provided at this time.
- Staff has not received sign-off from the Environmental Services Department at this time.

21. Should the Board wish to **approve** this request, staff would recommend the following stipulations:

- a) General compliance with the engineered grading and drainage plans dated September 28, 2004 and stamped received November 4, 2004.
- b) The applicant shall obtain all necessary permits within 120 days of Board approval.
- c) The applicant shall provide evidence to the Environmental Services Department of a workable alternative wastewater treatment system prior to obtaining permits.
- d) Including any disturbance areas associated with the installation of the septic system, all areas of the lot that will be disturbed, but not improved according to this plan, shall be re-vegetated by means of a mixture of grasses, shrubs, trees or cacti, which are indigenous to this site, placed in such a manner as to provide a basic ground cover which will prevent erosion and permit natural revegetation. A reasonable effort shall be made towards the salvage and re-planting of existing, native plant species. All fill banks, shall be over-seeded with Sonoran Desert Uplands Mix or similar. Any cut banks shall be chemically weathered to reduce the visual impact of the disturbance.
- e) The applicant shall pay a \$150.00 site inspection fee to the Flood Control District prior to obtaining permits.

22. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

clh

Attachments: Case Map BA2004139
Zoning Map
Assessor Map
Site Plan
Floor Plan
Roof Plan
Elevations and Cross Sections (2 pages)
Application
Supplemental Questionnaire
Environmental Services Memorandum
Flood Control District Memorandum